

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 MATHEW BEARD,

Case No. 2:23-cv-01060-GMN-NJK

4 Plaintiff,

ORDER

5 v.

6 NEVADA DEPT. OF CORRECTIONS, et  
al.,

7 Defendants.

8

9 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. §  
10 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma*  
11 *pauperis*. (ECF No. 1.) Based on the financial information provided, the Court finds that  
12 Plaintiff is unable to prepay the full filing fee in this matter.

13 The Court entered a screening order on August 29, 2024. (ECF No. 10.) The  
14 screening order imposed a 90-day stay, and the Court entered a subsequent order in  
15 which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos.  
16 10, 13). The parties participated in a mediation conference, but they did not reach a  
17 settlement. (ECF No. 16.)

18 Plaintiff has filed a motion for default judgment. (ECF No. 9.) This case has been  
19 at the screening stage, and the Defendants have not yet been served. As part of this  
20 order the Court will direct the Office of the Attorney General to indicate whether it will  
21 accept service on behalf of the Defendants. Because the Defendants have not been  
22 served, they were not required to respond to any of Plaintiff's filing, and the motion for  
23 default judgment is premature. The Court denies the motion without prejudice.

24 For the foregoing reasons, **IT IS ORDERED** that:

25 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is  
26 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In  
27 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28  
28 U.S.C. § 1915(b)(2).

1       2. Plaintiff is permitted to maintain this action to conclusion without the  
2 necessity of prepayment of any additional fees or costs or the giving of security therefor.

3       3. Pursuant to 28 U.S.C. § 1915, the Nevada Department of Corrections will  
4 forward payments from the account of Mathew Beard, #1052281 to the Clerk of the  
5 United States District Court, District of Nevada, 20% of the preceding month's deposits  
6 (in months that the account exceeds \$10.00) until the full \$350 filing fee has been paid  
7 for this action. The Clerk of the Court will send a copy of this order to the Finance Division  
8 of the Clerk's Office. The Clerk will send a copy of this order to the attention of **Chief of**  
9 **Inmate Services for the Nevada Department of Corrections** at  
10 formapauperis@doc.nv.gov.

11      4. The Clerk of the Court shall electronically **SERVE** a copy of this order and  
12 a copy of Plaintiff's first amended complaint (ECF No. 5) on the Office of the Attorney  
13 General of the State of Nevada by adding the Attorney General of the State of Nevada to  
14 the docket sheet. This does not indicate acceptance of service.

15      5. Service must be perfected within ninety (90) days from the date of this order  
16 pursuant to Fed. R. Civ. P. 4(m).

17      6. Subject to the findings of the screening order (ECF No. 10), within twenty-  
18 one (21) days of the date of entry of this order, the Attorney General's Office shall file a  
19 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it  
20 accepts service; (b) the names of the defendants for whom it does not accept service,  
21 and (c) the names of the defendants for whom it is filing the last-known-address  
22 information under seal. As to any of the named defendants for whom the Attorney  
23 General's Office cannot accept service, the Office shall file, under seal, but shall not serve  
24 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such  
25 information. If the last known address of the defendant(s) is a post office box, the Attorney  
26 General's Office shall attempt to obtain and provide the last known physical address(es).

27      7. If service cannot be accepted for any of the named defendant(s), Plaintiff  
28 shall file a motion identifying the unserved defendant(s), requesting issuance of a

1 summons, and specifying a full name and address for the defendant(s). For the  
2 defendant(s) as to which the Attorney General has not provided last-known-address  
3 information, Plaintiff shall provide the full name and address for the defendant(s).

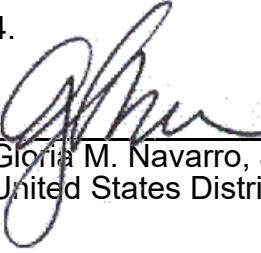
4 8. If the Attorney General accepts service of process for any named  
5 defendant(s), such defendant(s) shall file and serve an answer or other response to the  
6 first amended complaint (ECF No. 5) within sixty (60) days from the date of this order.

7 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been  
8 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
9 document submitted for consideration by the Court. If Plaintiff electronically files a  
10 document with the Court's electronic-filing system, no certificate of service is required.  
11 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff  
12 mails the document to the Court, Plaintiff shall include with the original document  
13 submitted for filing a certificate stating the date that a true and correct copy of the  
14 document was mailed to the defendants or counsel for the defendants. If counsel has  
15 entered a notice of appearance, Plaintiff shall direct service to the individual attorney  
16 named in the notice of appearance, at the physical or electronic address stated therein.  
17 The Court may disregard any document received by a district judge or magistrate judge  
18 which has not been filed with the Clerk, and any document received by a district judge,  
19 magistrate judge, or the Clerk which fails to include a certificate showing proper service  
20 when required.

21 10. Plaintiff's motion for default judgment (ECF No. 9) is DENIED without  
22 prejudice.

23 11. This case is no longer stayed.

24 DATED THIS 20 day of November 2024.  
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Gloria M. Navarro, Judge  
United States District Court